

SECTION III—REMARKS

This amendment is submitted in response to the Office Action mailed January 15, 2004. No claims are amended herein, and claims 1-20 remain pending in the application. Applicants respectfully request reconsideration of the application and allowance of all pending claims in view of the following remarks.

Allowed Claims

The Examiner allowed claims 1-14. None of these claims are amended herein, so they continue to be allowed.

Claim Objections

The Examiner objected to claims 16-18 for being dependent on a rejected base claim, but indicated that these claims would be allowable if re-written in independent form including all the limitations of the base claims and any intervening claim. As discussed below, these claims depend from an allowable independent claim and therefore are also allowable.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 15, 19 and 20 under 35 U.S.C. § 103(a) as obvious in view of, and therefore unpatentable over, U.S. Patent No. 6,175,451 to Iriyama et al (“Iriyama”) in view of U.S. Patent No. 5,530,577 to Orino et al (“Orino”) or U.S. Patent No. 5,229,593 to Cato (“Cato”). Applicant respectfully traverses the Examiner’s rejections. To establish a *prima facie* case of obviousness, three criteria must be met: (1) the prior art references must teach or suggest all the claim limitations; (2) some suggestion or motivation to combine the references must be found in the prior art; and (3) there must be a reasonable expectation of success. MPEP § 2143. As further explained below, the Examiner has not established a *prima facie* case of obviousness.

Claim 15 recites an apparatus combination including a first optical transceiver “mounted to a window in a first building,” and a second optical transceiver “mounted to a window in a second building.” Each of the first and second optical transceivers comprise a set of transceiver optics and electronics for transmitting and receiving an optical signal and

a multi-axis positioning mechanism “mounted to the window and coupled to the set of transceiver optics and electronics for controlling an orientation of the set of transceiver optics and electronics such that outgoing optical signals emitting from each transceiver are directed toward the other transceiver so as to enable bi-directional communication between the first and second optical transceivers.” Iriyama, whether combined with Orino or Cato, cannot obviate this claim because none of these references disclose, teach or suggest that any component can or should be mounted to a window. The only mount disclosed in Iriyama is the pedestal mount shown in Figure 2, which is incompatible with window mounting. There is no disclosure, teaching or suggestion in Iriyama of a transceiver mounted to a window; in fact, a search of Iriyama reveals that the word “window” does not even appear in this reference. Orino contains no disclosure of any kind of mounting and, like Iriyama, the word “window” does not even appear in the reference. Cato only discloses a laser communication terminal that may be positioned on a building rooftop or positioned adjacent a window (col. 1, lines 32-35). Cato does not disclose, teach or suggest a transceiver mounted to a window. Because Iriyama, Orino and Cato, alone or in combination, do not disclose, teach or suggest a combination including the recited limitations, Applicant submits that these references cannot obviate the claim, and respectfully request withdrawal of the rejection and allowance of the claim.

Regarding claims 19-20, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 15 is in condition for allowance. Applicant submits that claims 19-20 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicant respectfully requests withdrawal of the rejections and allowance of these claims.

Conclusion

Given the above amendments and accompanying remarks, all claims pending in the application are in condition for allowance. If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to allowance of the claims, the

Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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Date: 4-12-04

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